



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/544,735	04/07/2000	John Lynch	104005-0111	2317

24267 7590 11/28/2003

CESARI AND MCKENNA, LLP  
88 BLACK FALCON AVENUE  
BOSTON, MA 02210

EXAMINER

JAGANNATHAN, MELANIE

ART UNIT PAPER NUMBER

2666

DATE MAILED: 11/28/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/544,735

Applicant(s)

LYNCH ET AL

Examiner

Melanie Jagannathan

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 5 and 7-14 is/are rejected.
- 7) ☐ Claim(s) 3-4, 6, 15-16, 18-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 2, 5, 13-14 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Roy US 6,324,169.

Regarding claims 2 and 17, the claimed system having a plurality of nodes having means for connecting and disconnecting communication paths between a plurality of ports, nodes including switching nodes is anticipated by routers (Figure 1, elements 3-1, 3-2 and 3-3). The claimed at least two nodes being conferencing nodes to perform a conference between three or more participants who are callers connected at any port in system is anticipated by routers being connected to workstations (elements 1-1 through 1-5) each equipped with multimedia conferencing application programs. The claimed node being assigned time slots for transmitting

Art Unit: 2666

and receiving data and control information and a host coupled to at least one node for controlling system in which conferencing resources are utilized by one or more nodes participating in conference is anticipated by the quality of service manager determining resource requirements in order to provide call (Figure 5, step 9) between workstations participating in conference call.

The claimed defining a requested conference as being one of a dynamic, critical and static conference type is anticipated by type of services to be provided for different service levels such as priority level 1, guaranteed service and priority level 2, best effort service. See column 7, lines 5-31. The claimed identifying available resources and sufficient bandwidth for performing a conferencing function for a conference of that type is anticipated by determination of resource requirements and bandwidth requirements for conference call and quality of service manager determining whether there is sufficient resources to provide a call that satisfies all requirements of the conference call. See column 7, lines 5-31, 62-67 and column 8, lines 11-17.

Regarding claim 5, the claimed employing of user-defined parameters to determine conference type is anticipated by calling computer sending information about quality of service requirements including priority level of conference call which would determine if the conference is a guaranteed service or a best effort service. See column 6, lines 66-67 and column 7, lines 1-14.

Regarding claims 13 and 14, the claimed static conference with constant participants assigned as a "best fit" basis is anticipated by conference call by calling computer (Figure 1, element 1-1) to called computers (elements 1-2 and 1-4) including quality of service requirements where there are different service levels such as "best effort service" for priority level 2 resources.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roy in view of Phaal US 6,006,269.

Regarding claim 7, Roy discloses all the limitations of the claim except for a dynamic conference being defined as a conference likely to change in size based upon predetermined criteria. Phaal discloses a session in progress between a host side (Figure 1, element 15) and a client side (element 13) including individual personal computers each with a user. For newly received messages from additional users, not a part of the already established session, the resource monitor (element 27) determines whether messages can be admitted if the resources are available and the admission control gateway (element 25) admits the messages if there available

Art Unit: 2666

time slots. See column 5, lines 17-27, lines 58-67 and column 6, lines 1-15. Phaal teaches the idea of admitting new messages from users during a session-in-progress if resources are available. At the time the invention was made it would have been obvious to a person of ordinary skill in the art to modify the conferencing services of Roy with the method of Phaal of admitting new users if resources are available. One of ordinary skill in the art would be motivated to do so in order to accommodate several users and for efficient use of resources.

Regarding claim 8, Roy discloses all the limitations of the claims except for assigning maximum available capacity to a dynamic conference. Phaal discloses a session-in-progress between users and the users with priority receiving the maximum available capacity while non-priority users are deferred and their messages not transmitted. Phaal teaches the idea of assigning maximum available resources to a certain group, in this case priority communication between users and a host. See column 5, lines 58-67 and column 6, lines 1-15. At the time the invention was made it would have been obvious to a person of ordinary skill in the art to modify the conferencing services of Roy with the method of Phaal of assigning maximum resources to a dynamic conference. One of ordinary skill in the art would be motivated to do so in order to accommodate several users and for efficient use of resources.

Regarding claim 9, Roy discloses all the limitations of the claims except for having as many channels as possible such that conference can grow as large as possible and that channels remain available for participants who join the conference in progress. Phaal discloses a session in progress between a host side (Figure 1, element 15) and a client side (element 13) including individual personal computers each with a user. For newly received messages from additional users, not a part of the already established session, the resource monitor (element 27) determine

Art Unit: 2666

whether messages can be admitted if the resources are available and the admission control gateway (element 25) admits the messages if there available time slots. See column 5, lines 17-27, lines 58-67 and column 6, lines 1-15. Phaal discloses a session-in-progress between users and users with priority receiving the maximum available capacity while non-priority users are deferred and their messages not transmitted. Phaal teaches the idea of assigning maximum available resources to a certain group, in this case priority communication between users and a host. See column 5, lines 58-67 and column 6, lines 1-15. At the time the invention was made it would have been obvious to a person of ordinary skill in the art to modify the conferencing services of Roy with the method of Phaal of assigning maximum resources to a conference in progress so additional participants can join. One of ordinary skill in the art would be motivated to do so in order to accommodate several users and for efficient use of resources.

Regarding claim 10, Roy discloses all the limitations of the claims except for defining a critical conference as a conference that requires maximum opportunity or growth in system. Phaal discloses a session-in-progress between users and users with priority receiving the maximum available capacity while non-priority users are deferred and their messages not transmitted. Phaal teaches the idea of assigning maximum available resources to a certain group, in this case priority communication between users and a host so additional users can be added using the available resources and non-priority communication do not have access to resources. See column 5, lines 58-67 and column 6, lines 1-15. At the time the invention was made it would have been obvious to a person of ordinary skill in the art to modify the conferencing services of Roy with the method of Phaal of assigning maximum resources to a group for

Art Unit: 2666

maximum growth in system. One of ordinary skill in the art would be motivated to do so in order to accommodate several users and for efficient use of resources.

Regarding claim 11, Roy discloses all the limitations of the claim except for the selecting for critical conference the maximum available capacity and establish conference and block other conferences from being assigned such that capacity remains available for critical conference. Phaal discloses a session-in-progress between users and users with priority receiving the maximum available capacity while non-priority users are deferred and their messages not transmitted. Phaal teaches the idea of assigning maximum available resources to a certain group, in this case priority communication between users and a host so additional users can be added using the available resources and non-priority communication do not have access to resources. See column 5, lines 58-67 and column 6, lines 1-15. At the time the invention was made it would have been obvious to a person of ordinary skill in the art to modify the conferencing services of Roy with the method of Phaal of assigning maximum resources to priority messages and blocking non-priority messages to server. One of ordinary skill in the art would be motivated to do so in order to accommodate several users, for efficient use of resources and quality of service.

Regarding claim 12, Roy discloses all the limitations of the claims except for revealing blocked channels after critical conference is finished. Phaal discloses deferral manager (Figure 1, element 31) sending message (element 33) to user(s) of client system informing of deferment and deferral manager along with scheduler (element 35) calculating time for deferred message to be admitted by user to server when priority communication is finished and generating cookie for the client system for the admission control system to recognize client as deferred user. See



Art Unit: 2666

column 16-29 and lines 50-55. Phaal teaches the idea of maintaining information regarding deferred users and allowing admission of messages by non-priority users once priority communication is finished. At the time the invention was made it would have been obvious to a person of ordinary skill in the art to modify the conferencing services of Roy with the method of Phaal of admitting deferred non-priority messages to server once priority communication is over. One of ordinary skill in the art would be motivated to do so for efficient use of resources and quality of service.

***Allowable Subject Matter***

5. Claims 3-4, 6, 15-16 and 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments filed 9/3/2003 have been fully considered but they are moot in view of new grounds of rejection. Examiner appreciates detailed description of prior art.

Regarding claims 2 and 17, Applicants argue reference Roy does not disclose the switching node claimed as Roy discloses connection to a particular PC workstation that has been programmed with conferencing application. Examiner contends that the claimed switching nodes are anticipated by routers and conferencing nodes between callers connected at any port in the system is anticipated by the routers connected to workstations. The workstation and the routers are programmable with conferencing means. Applicants argue the claimed programmable switching node can serve as many different networks as are coupled by the

Art Unit: 2666

interfaces. Examiner contends, although, Roy discloses the use of ATM network, in light of the claim language which uses and/or, the rejection is still proper.

Regarding claims 7-14, Applicants argue reference Phaal does not teach guaranteeing conferencing resources even if conference changes in size. Examiner argues Phaal teaches the idea of admitting new messages from users during a session-in-progress. Phaal discloses a session-in-progress between users and the users with priority receiving the maximum available capacity while non-priority users are deferred and their messages not transmitted. Phaal teaches the idea of assigning maximum available resources to a certain group, in this case priority communication between users and a host. Resources to low priority are pre-empted to satisfy the needs of higher priority services if needed. See column 5, lines 58-67, column 6, lines 1-15, and column 9, lines 10-21.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 2666

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Jagannathan whose telephone number is 703-305-8078.

The examiner can normally be reached on Monday-Friday from 8:00 a.m.-4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 703-308-5463. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Melanie Jagannathan  
Patent Examiner  
AU 2666

MJ

*MJ*

*Seema S. Rao*  
SEEMA S. RAO 11/24/03  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800